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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/025,301

12/18/2001

James M. Okuley

5038-136

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32231

7590

06/17/2005

MARGER, JOHNSON & MCCOLLOM, P.C. - INTEL  
1030 SW MORRISON ST.  
PORTLAND, OR 97205

EXAMINER

MOE, AUNG SOE

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/025,301

Applicant(s)

OKULEY, JAMES M.

Examiner

Aung S. Moe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Please note that this case has been assigned to a different Examiner.

#### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-5 and 9-11 have been considered but are moot in view of the new ground(s) of rejection.

2. Applicant's arguments filed on 2/3/2005 have been fully considered but they are not persuasive.

In page 7 of the remarks, the Applicant alleged that the proposed combination of prior art of references applied to the present claimed invention is based upon improper hindsight reasoning.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In this case the Examiner has set forth in previous Office Action and current Office Action reasons why one skilled in the art, and therefore possessing knowledge generally available to the skilled artisan, would have been motivated to combine the proposed cited

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references, and the motivation to combine can be seen in details action below. In view of this, the examiner continues to be of the opinion that one skill in the art would have been prompted to combine the cited references.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In view of the above, present claimed invention is rejected as follows:

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 and 4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, it is unclear how “a main body”, “a handle” and “a user” recited in lines 1 and 2 relate to “a main body”, “a handle” and “a user” recited in claim 1, lines 2 and 3? If there are the same “main body”, “handle” and “user”, the Examiner suggests to change “a main body”, “a handle” and “a user” recited in lines 1 and 2 of claim 2 to - - said main body - -, - - said handle - - and - - said user - - respectively.

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In claim 4, it is unclear how "a user" recited in line 4 relate to "a user" recited in claim 1, line 3? If there are the same "user", the Examiner suggests to change "a main body", "a handle" and "a user" recited in lines 1 and 2 of claim 2 to - - said user - -.

For the purpose of examining, the Examiner will assume that they are the same.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-5, 6-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honda et al. (U.S. 6,041,195) in view of Acker (U.S. 5,742,859).

Regarding claim 1, Honda '195 discloses camera body (B0); a still image button (S2) disposed in a first location on the camera body;

a video image button (S1) in a second location on the camera body, the second location different from the first location; and

a unified memory (17) coupled to the still image button and the video image button for storing a still image or a video image, respectively, responsive to activation of the respective button (see col. 14, lines 15-31 ' , Honda teaches that moving and still images can be recorded on recording medium 17).

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In addition, it is noted that Honda '195 does not explicitly show the use a handle coupled to the main body so that the handle is adapted to be griped with the hand of a user as recited in present claimed invention.

However, the above-mentioned claimed limitations are well known in the art to the ordinary skilled in the art at the time of the invention was made as evidenced by Acker '859. In particular, the handle (26) of Acker '859 is **firmly** coupled to the main body of the camera (22) by using the elements 38, 44 and 40 (i.e., see Fig. 1 and col. 5, lines 5-10) so that a user of the camera (22) can grip the handle (26) of the camera unit (22).

In view of the above, having the system of Honda '195 and then given the well-established teaching of Acker '859, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Honda '195 as taught by Acker '859, since Acker '859 stated in col. 2, lines 1-16 that such a modification would improved roll stability of the camera, unobstructed visibility of the monitor and less fatiguing operation thereof.

Regarding claim 3, Honda '195 shows that still image button and the video image button are disposed on the main body, and Honda '195 does not explicitly stated that a video image button is located on the handle. However, Acker '859 teaches the use of handle for controlling the operation of the camera, such as controlling the video image capturing by using a button (180; see col. 8, lines 40+). In view of this, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Honda '195 by providing the handle (26) having a video switch (180) as taught by Acker '859 so that it

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would allow the user to control the operation of the camera from the handle so that it would provide unobstructed visibility of the monitor as suggested by Acker '859 (i.e., see col. 2, lines 1-16 of Acker '859).

Regarding claim 4, the combination of Honda '195 and Acker '859 discloses wherein the still image button is disposed on a top portion of said main body (i.e., see Fig. 3 of Honda '195) and the video image button is disposed on a forwardly facing portion of the handle adjacent the boundary between the main body and handle so that the video image button can be easily depressed by the index finger of a user when the handle is gripped (i.e., noted the use of switch 180 located on the handle 26 as taught by Acker '859, thus, it is cleared that the modification of camera system of Honda '195 includes a switch 180 on the handle 26 for allowing the user to control an ON-OFF operation by depressing the switch 180 with the index finger as required by the present claimed invention).

Regarding claim 5, the combination of Honda '195 and Acker '859 shows said handle coupled to said main body at a slight, forwardly facing oblique angle to said main body (i.e., noted the position angle of the handle 26 as shown in Figs. 2 and 13 of Acker '859).

Regarding claim 6, Honda '195 discloses an image capture device comprising: a camera body including a main body (B0) and a viewfinder integrated into said main body (i.e., noted the elements 18 and EL as shown in Figs. 3 and 4); a still image button (S2) disposed in a first location on the camera body (B0); a video image button (S1) in a second location on the camera body (B0); and a unified memory (117) coupled to said still image button and said video

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image button for storing a still image or a video image, respectively, observed through the viewfinder (i.e., noted the use of elements 18 and EL for viewing the respective images captured by the camera) responsive to activation of said respective button (S1/S2), wherein said still image button and said video image button are simultaneously active awaiting actuation (i.e., in col. 12, lines 12+ in Honda '195 discloses a shooting mode for capturing still and video images, respectively, where both are in a ready state).

Furthermore, it is noted that Honda '195 does not explicitly show a handle coupled at a slight forwardly oblique angle to the main body said handle adapted for gripping by the hand of a user, and wherein at least one of said still image button and said video image button is disposed on a forwardly facing portion of said handle as required by the present claimed invention.

However, the above –mentioned claimed limitations are well known in the art as evidenced by Acker '859. In particular, Acker '859 teaches that it is conventionally well known to include a camera main body (22) and a handle (i.e., noted the handle assembly elements 26, 44, 40 and 38 firmly attached to the camera unit 22) adapted for gripping by the hand of a user (i.e., see Figs. 8 and 15), and wherein at least one of said still image button and said video image button (i.e., noted the use of button 180; see col. 8, lines 40+) is disposed on a forwardly facing portion of said handle (26) as required by the present claimed invention.

In view of the above, having the system of Honda '195 and then given the well-established teaching of Acker '859, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Honda '195 as taught by Acker '859, since Acker '859 stated in col. 2, lines 1-16 that such a modification would



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improved roll stability of the camera, unobstructed visibility of the monitor and less fatiguing operation thereof.

Regarding claim 7, please see the Examiner's comment with respect to claim 3 as discussed above.

Regarding claim 8, please see the Examiner's comment with respect to claim 4 as discussed above.

Regarding claim 12, the combination of Honda '195 and Acker '859 shows wherein the steps of storing the single still image and video in the unified memory occur concurrently without any intermediate steps (as discussed in col. 12, lines 12-30 of Honda '195, it is showed a shooting mode for capturing still and video images, respectively, where both are in a ready state).

7. Claims 1-5, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Honda '195 in view of Sasaki et al. (U.S. 4,984,090).

Regarding claim 1, Honda '195 discloses camera body (B0); a still image button (S2) disposed in a first location on the camera body;

a video image button (S1) in a second location on the camera body, the second location different from the first location; and

a unified memory (17) coupled to the still image button and the video image button for storing a still image or a video image, respectively, responsive to activation of the respective button (see col. 14, lines 15-31 ', Honda teaches that moving and still

images can be recorded on recording medium 17).

In addition, it is noted that Honda '195 does not explicitly show the use a handle coupled to the main body so that the handle is adapted to be gripped with the hand of a user as recited in present claimed invention.

However, the above-mentioned claimed limitations are well known in the art to the ordinary skilled in the art at the time of the invention was made as evidenced by Sasaki '090. In particular, the handle (30) of Sasaki '090 is **fixed** to the bottom portion of the video camera (10), so that the handle (30) is firmly coupled to the main body of the camera (10) by using the elements 32 and 34 (i.e., see Fig. 1 and col. 4, lines 35+) so that a user of the camera (10) can grip the handle (30) of the camera unit (10).

In view of the above, having the system of Honda '195 and then given the well-established teaching of Sasaki '090, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Honda '195 as taught by Sasaki '090, since Sasaki '090 stated in col. 1, lines 60+ that such a modification would prevent confused operations and improve the stability in holding of the camera.

Regarding claim 2, the combination of Honda '195 and Sasaki '090 shows wherein the camera body includes a main body and the handle fixedly coupled to said main body (i.e., as shown in Figs. 1 and 13 of Sasaki '090, the handle unit is fixed to the bottom portion of the video camera, so that the handle 30 is secured in position while coupled to the camera body), said handle adapted to be gripped with the hand of a user (i.e., noted from the Fig. 1 of Sasaki '090 that the operation of the camera is capable of gripping the grip 30 with the hand).

Regarding claim 3, Honda '195 shows that still image button and the video image button are disposed on the main body, and Honda '195 does not explicitly stated that a video image button is located on the handle. However, Sasaki '090 teaches the use of handle for controlling the operation of the camera, such as controlling the video image capturing by using a button (36; see col. 4, lines 40+). In view of this, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Honda '195 by providing the handle (30) having a video switch (36) as taught by Sasaki '090 so that it would prevent confused operations of the photographing button and can improve the stability in holding as suggested by Acker '859 (i.e., see col. 1, lines 60+ of Sasaki '090).

Regarding claim 4, the combination of Honda '195 and Sasaki '090 discloses wherein the still image button is disposed on a top portion of said main body (i.e., see Fig. 3 of Honda '195) and the video image button is disposed on a forwardly facing portion of the handle adjacent the boundary between the main body and handle so that the video image button can be easily depressed by the index finger of a user when the handle is gripped (i.e., noted the use of switch 36 located on the handle 30 as taught by Sasaki '090, thus, it is cleared that the modification of camera system of Honda '195 includes a switch 36 on the handle 30 for allowing the user to control an ON-OFF operation by depressing the switch 36 with the index finger as required by the present claimed invention).

Regarding claim 5, the combination of Honda '195 and Sasaki '090 shows said handle coupled to said main body at a slight, forwardly facing oblique angle to said main body (i.e., noted the position angle of the handle grip 30 as shown in Figs. 1 and 6 of Sasaki '090).

Regarding claim 9, Honda '195 discloses a method for capturing still and video images from a single image capture device of a type having a camera body (BO), two spaced buttons (i.e., noted the buttons S1, S2 and S3 as shown in Fig. 3) disposed on the camera body (BO) and a unified memory (17), the method comprising:

storing a single still image in the unified memory responsive only to actuation of a first of the two buttons (i.e., see col. 27, lines 45-55 of Honda '195 ); and storing a video in the unified memory responsive only to actuation of a second of the two buttons (i.e., see col. 27, lines 45+ of Honda '195), wherein both buttons are simultaneously active awaiting actuation (i.e., in col. 12, lines 12+ in Honda '195 discloses a shooting mode for capturing still and video images, respectively, where both are in a ready state).

Furthermore, it is noted that Honda '195 does not explicitly show a handle obliquely extending from the camera body and grasping the handle to support the camera with one hand as recited in present claimed invention.

However, the above-mentioned claimed limitations are well known in the art as evidenced by Sasaki '090. In particular, Sasaki '090 teaches the use of a handle (i.e., noted the grip 30 and 81 and shown in Figs. 1 and 5) obliquely extending from the camera body (10) so that the user of the camera can grip the handle (30/81) to support the camera with one hand (i.e.,

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noted from Figs. 1, 6 and 12 that the user can grip the handle 30/81 with one hand) as recited in present claimed invention.

In view of the above, having the system of Honda '195 and then given the well-established teaching of Sasaki '090, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system of Honda '195 as taught by Sasaki '090, since Sasaki '090 stated in col. 1, lines 60+ that such a modification would prevent confused operations and improve the stability in holding of the camera.

Regarding claim 10, the combination of Honda '195 and Sasaki '090 show wherein the handle is fixed at the oblique angle to the camera body (i.e., as shown in Figs. 1 and 6, the handle 30/81 is fixed to the bottom portion of the video camera, and the angle of the grip is oblique angle to the camera body as required; see col. 10, lines 50+)

Regarding claim 11, the combination of Honda '195 and Sasaki '090 show further including locating at least one of the first or second buttons (i.e., noted the button 36/81 of the grip as shown in Figs. 1 and 6 of Sasaki '090) on a forwardly facing portion of the handle (81/30) for easy triggering by the forefinger of the user's hand when gripping the camera handle (i.e., it is cleared from the teaching of Sasaki '090 that the buttons 36 and 81 are capable of triggering by the forefinger of the camera's operator).

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

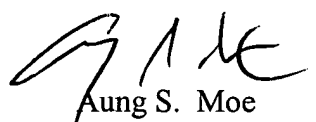
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung S. Moe whose telephone number is 571-272-7314. The examiner can normally be reached on Mon-Fri (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aung S. Moe  
Primary Examiner  
Art Unit 2612

A. Moe  
June 11, 2005